REMARKS

The Examiner has objected to the drawings under 37 C.F.R. 1.83(a). The drawings must show every feature of the invention specified in the claims. The bracing strut (15) must be shown, or the features canceled from the claims.

The Applicant has amended the specification on page 11, the paragraph beginning on line 8, to correct the typographical error. Numeral (15) has been corrected to read (16). Sixteen (16) refers to the bracing strut, which is variously embodied as 16a, 16b, 16c, and 16d. The amendment clarifies the relationship of 16a-d to 16.

The specification has also been amended correcting the spelling error on page 12, first paragraph line 15 of the word "trough", which was misspelled as "tough."

The Examiner has rejected claims 1-12 and 19, under U.S.C. 102(b) as being anticipated by Knudson, U.S. Patent 5,845,432. Regarding claim 1, the Examiner states that Knudson discloses a bracket for mounting a cover to a gutter, the bracket having a junction **43** as shown in fig. 1, a lifting strut **32** attached to the juncture, a stabilizing strut **39** attached to the juncture and a bracing strut 65 attached to the juncture.

Applicant has amended claim 1 such that (d) now reads, "at least one bracing strut having a distal lower end and an upper end that is integral with the junction, wherein the at least one bracing strut is angled so that the distal lower end will contact the bottom of the gutter or the front wall of the gutter or a combination thereof, and the upper end will provide support to the lifting strut through the junction." The bracing strut is <u>not</u> in contact with the rear wall of the gutter. This is in contrast to Knudson's bracket, which is designed to be fastened to the rear wall such that it projects outwardly forming a support bracket for

the gutter, as well as a support bracket for the gutter cover. When installed, Knudson's bracket is used with a fastening element **75** for attaching the bracket and rear wall of the gutter to fascia board **13**. Applicant's bracket provides no support for the gutter itself, but instead utilizes the supported gutter as a base for supporting the gutter cover. Applicant's bracket does not utilize a fastening means, such as **75**. Knudson, in column 2, line 61, states "each fastening support device **31** shown includes an intermediate body portion **32**, an upper support arm portion **33**, and a lower support arm **34**, with portions **33** and **34** extending forwardly from the front-end of the intermediate body portion **32**. Arm portions **33** and **34** are spaced a selected fixed distance apart. Body portion **32** and upper support arm portion **33** and lower support arm **34** shown are an elongated ridge support body, which when anchored to the rear of the back wall (rear wall) provide a cantilever support for the shield, and a rear base portion **35** extends transfers to the rear end of the intermediate body portion **32** and bears against the back wall **18** of the gutter **12**. Applicant's invention has no counterpart to the base portion **35**, which extends to the rear end of the intermediate body portion **32**.

The Examiner, with respect to claim 2, has stated that Knudson discloses a bracing strut that is angled, and points out the bend below **65**.

Applicant refers the Examiner to Knudson, column 4, line 20. The "bend" is identified by Knudson as a lower indentation **65**. The indentation **65** creates a recess so that the rear top edge of the gutter can be used for aligning the bracket with respect to the gutter. The lower indentation **65** curves back out, and it does not result in a change in angle. There is no element on Applicant's bracing strut that corresponds to **65**.

The Examiner rejects claim 3, on the basis that the straight bracing strut of Applicant's invention is equivalent to Knudson's **65**. The indentation **65** creates a recess so that the rear top edge of the gutter can be used for aligning the bracket with respect to the gutter. The lower indentation **65** curves back out, and it does not result in a change in angle. There is no element on Applicant's bracing strut that corresponds to **65**.

The Examiner has reiterated the same argument for rejecting claim 4, that the bracing strut is curved, see curve at **65**.

Applicant reiterates that there is no elemental correlation between a strut and an indentation. The Examiner's rejections are respectfully overcome.

Claim 5 stands rejected by the Examiner as Knudson discloses a bracket having a connecting element **44** spanning between the stabilizing and lifting struts.

Applicant's claim 5 is a dependent claim depending on claim 1, and therefore has all the limitations of claim 1. Knudson's connecting element **44** serves as a support element for holding up the front edge of the gutter, as well as a support element for the lifting strut. Applicant's bracket does not support the gutter, only the gutter cover. The support element **200,** as claimed in claim 5, additionally augments the bracing strut to provide support for the lifting strut. Knudson's connecting element **44** connects parallel portions **38** and **41** to provide support for the front wall **17** of the gutter. Applicant's bracket does not support the gutter, but is supported by the gutter. Applicant's bracket is not fastened to the fascia board 13, but rest on the bottom or front of the gutter.
Both shape and functionality are different.

The Examiner has rejected claim 6, as Knudson discloses the bracing strut as having a curved brace **65** and an angled brace.

Applicant requests the Examiner to reconsider the rejection. Knudson does not teach combining a curvilinear and an angled brace. Knudson teaches a bracket that has a base.

The Examiner has rejected claim 7 stating that Knudson discloses the bracket as having a connecting element **44** spanning between the stabilizing and lifting struts.

The Applicant's arguments put forth for claim 5 are applicable to claim 7.

The Examiner has rejected claim 8 stating that Knudson discloses the distal end of the lifting strut as being curved (33).

Applicant's claim 8 is a dependent claim depending on claim 1 and has all the limitations thereof. Knudson teaches that the lifting strut is connected to base **35**. There is no counterpart to the base **35** taught by Knudson (see Knudson, column 3, line 4).

The Examiner has rejected claim 9, stating Knudson discloses the bracing strut as having a curved brace and an angled brace.

Applicant's arguments put forth for claim 6 are applicable to the claim 9 rejection.

Claim 10 stands rejected, Knudson discloses the bracket as having a connecting element spanning between the stabilizing and lifting struts.

Applicant's claim 10 is a dependent claim depending on dependent claim 8, which is depending on claim 1, and therefore has all the limitations of claim 1 and 8. Knudson's connecting element **44** serves as a support element for holding up the front edge of the gutter, as well as a support element for the lifting strut. Applicant's bracket does not support the gutter, but is supported by the gutter. Applicant's bracket supports only the gutter cover. The support element **200,** as claimed in claim 10, additionally augments the bracing strut to provide support for the lifting strut. Knudson's connecting element **44** connects parallel portions **38** and **41** to provide support for the front wall **17** of the gutter. Both shape and functionality are different.

The Examiner has rejected claim 11 stating that Knudson discloses the bracket as having a connecting element spanning between the stabilizing (39) and lifting (32) struts.

Applicant's claim 11 is a dependent claim depending on dependent claim 9, which is depending on claim 8, which is depending on claim 1, and therefore has all the limitations of claim 8, 9 and 1. The claim 9 limitation necessitates teach combining a curvilinear and an angled brace. Knudson teaches a bracket that has a base. Also, Knudson's connecting element **44** serves as a support element for holding up the front edge of the gutter, as well as a support element for the lifting strut. Applicant's bracket does not support the gutter, only the gutter cover. The support element **200,** as shown in Fig. 13, additionally augments the bracing strut to provide support for the lifting strut. Knudson's connecting element **44** connects parallel portions **38** and **41** to provide support for the front wall **17** of the gutter. Both shape and functionality are different.

The Examiner has rejected claim 12 stating that Knudson discloses the bracket as having a connecting element.

Applicant proffers that the arguments put forth for claim 10 are applicable to claim 12.

Method Claim 19 stands rejected for reasons cited in the rejection of claim 1. In addition, the Examiner states that Knudson discloses positioning brackets on a trough at intervals, interlocking the front of the stabilizing strut into the front of the gutter, aligning a cover over the gutter and placing it under shingles against the fascia of the roof, and connecting the leading hooked-gutter front-edge with the distal end of the lifting strut.

Applicant has amended claim 19 to read that in addition to positioning the brackets along the trough at intervals sufficient to provide support for the cover and interlocking the hooked end of the stabilizing strut into the front rim of the gutter, that "the distal lower end of the bracing strut contacts the bottom of the gutter, or the front wall of the gutter, or a combination thereof." In the method, no fastening elements are needed to hold the bracket in place. In contrast, Knudson's bracket will require fastening element **75** passing through longitudinal chamber **41**. Also, at some point in the positioning of the Knudson bracket of the user would be required to attach the bracket to the rear wall of the gutter.

Claims 13-15, and 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson, U.S. Patent 5,845,432. Specifically in claim 13, Knudson discloses that the bracket may be formed by extrusion, column 3, lines 6-8, but does not specify the use of cutting. It would have been obvious to one having ordinary skill in the art at the time that

the invention was made to modify Knudson by using a type of cutter/trimmer to cut excessive flashing from the bracket to create a custom fit for the bracket to match the individual gutters. The Examiner goes on to state that Applicant should note that even though the product–by–process claims are limited and defined by the process, determination of patentability is determined on the product itself. The Examiner's reference states "the device **31** shown may be made as an integral body of extruded aluminum, extruded plastic or injection molded plastic. The width of the device shown is preferably 0.5 to 1.0 inch and preferably about 0.75 inch.

Applicant in claim 13 teaches that a bracket maybe formed by continuous extrusion [forming a wide bracket], then cutting the bracket to the desired width. For instance, in this process, individual brackets are cut from a very large bracket. For example, one 10 foot long bracket could be sliced into 120 bracket, each 1" wide. Applicant is not teaching merely trimming flashing off, but that the invention is suitable for mass production using a continuous process. Applicant's invention does not have any ribbed components which, would prevent formation of the bracket using a continuous process. If an application arose where a wider bracket was required, say a 2" wide bracket, then the 10 foot bracket could be cut into 60 2" brackets. No retooling would be required. In contrast, Knudson in fig. 9 teaches a bracket **31** having an inclined ramp-rib section **147**, which serves as a guide for installing the cutter cover / shield **99**. The ramp-rib section would not lend itself to a continuous extrusion process, because the longitudinal section could not be formed.

Claim 14 stands rejected by the Examiner, in that Knudson discloses that the bracket can be made from plastics or metals, and the bracket in the instant invention may be made using similar products.

Claim 14 is a dependent claim depending on claim 13, which is a dependent claim depending on claim 1. Claim 14 would have all the limitations of claim 13, as well as limitations of claim 1, and Knudson does not teach that the bracket can be formed by continuous extrusion.

Claim 15 stands rejected as Knudson discloses that the bracket is made from aluminum.

Applicant's claim 15 is dependent on claim 14, which is dependent on claim 13, which is a dependent claim depending on claim 1, and has all the limitations thereof. As previously set forth, claim 13 teaches a process for forming the bracket using continuous extrusion and then cutting the bracket into the desired width. Applicant's invention has no discrete elements such as holes **86** or an inclined ramp-ribbed section **147**, which would not lend itself to a continuous process.

Claim 18 stands rejected as Knudson discloses that the bracket is capable of containing anti-weathering agents. Applicant's claim 18 is dependent on claim 14, which is dependent on claim 13, which is dependent on claim 1 and has all the limitations thereof. Knudson does not teach a bracket to be formed by continuous extrusion, and cutting the bracket to the desired width.

Claims 16 and 17 are rejected by the Examiner under 35 U.S.C. 103(a) as being unpatentable over Knudson, U.S. Patent No. 5,845,432 in view of Schoenherr, U.S. Patent 5,570,860. The Examiner states that regarding claim 16, Knudson discloses the bracket as made from injection-molded plastics, but does not specifically disclose which type of plastic.

Applicant's claim 16 is dependent on claim 16, which is dependent upon claim 14, which is dependent upon claim 13, which teaches that the bracket can be made / formed using continuous manufacturing techniques. Knudson does not teach a bracket to be formed by continuous extrusion, and cutting the bracket to the desired width.

Claim 17 is rejected as Schoenherr discloses the use of fiberglass.

Applicant's arguments set forth for claim 16 are applicable to claim 17.

In conclusion, the Examiner includes several other brackets that are stated to be pertinent but not relied upon.

Applicant notes that in Morandin, U.S. Patent 5,617,678, the bracket extends from the rear wall forward to the front wall, as does Goble, in U.S. Patent 3,444,658, as does Albracht, U.S. Patent 6,701,674. All of these prior art citations / references require that the bracket be fastened to the rear wall, which is obviated by the instant invention. In U.S. Patent 6,732,477 to Tom R. Richard, the bracket shown in figs. 6, 7, and 12 does not contain an element comparable to the bracing strut or the stabilizing strut.

In view of the foregoing amendment and these remarks, this application is now believed to be in condition for allowance and such favorable action is respectfully requested on behalf of Applicant.

There have been no new claims added so there are no additional fees.

Applicant is sending, in a separate envelop, the Examiner an embodiment of the invention. From simple inspection, Applicant feels certain that there are clear patentable differences between Knudson and the instant invention.

Respectfully submitted,

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